

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

Civil Action 2:09-CV-864
Judge Smith
Magistrate Judge King

JP MORGAN CHASE BANK, N.A.,

Defendant.

ORDER

The Court conferred with counsel, by telephone, on February 6, 2012, regarding plaintiff's motion to compel, Doc. No. 88, and defendant's motion to strike, Doc. No. 97.

The parties have agreed to resolve the issues presented in those motions on the following terms:

1. Plaintiff agrees to withdraw its motion to compel without prejudice to the right to re-file the motion should the anticipated motion for summary judgment be denied.

2. Defendant agrees to withdraw its motion to strike without prejudice to the right to re-file the motion should the anticipated motion for summary judgment be denied.

3. Defendant may depose Richard F. Tonowski, Ph.D., regarding his supplemental report and thereafter produce a rebuttal expert report addressing Dr. Tonowski's supplemental report.

4. Defendant may file a motion for summary judgment following its deposition of Dr. Tonowski.

Based on the parties' agreement, it is **ORDERED** that

- prior to any refiling of the motion to compel or the motion to strike, the parties shall attempt to resolve any remaining dispute

relating to those motions.

- Dr. Tonowski shall be deposed on February 21, 2012.
- Defendant shall produce its rebuttal expert report in response to Dr. Tonowski's supplemental report no later than March 6, 2012.
- Defendant may have until April 9, 2012 to file its motion for summary judgment. That motion shall be briefed within rule.

There will be no extensions of these dates.

The Court concludes that settlement of the action appears at this juncture to be unlikely. The Court will therefore not refer the case to mediation at this point.

This *Order* resolves the motions reflected at Doc. Nos. 88, 97. The Clerk is **DIRECTED** to remove those motions from the Court's pending motions list.

February 6, 2012

s/Norah McCann King
Norah McCann King
United States Magistrate Judge